

Senator LINDSEY GRAHAM, Congressman DOUG LAMBORN, and Congressman LEE ZELDIN for introducing the Taylor Force Act.

As Palestinian Prime Minister Mahmoud Abbas travels to Washington to meet with President Trump on Wednesday, I am confident that President Trump will show his commitment to ending financial rewards for terrorists.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

#### AMERICANS LOOK TO THE STARS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, human history is punctuated by explorations of the world around us. We are a nation of explorers. It is part of our national identity, and finding new planets and looking for evidence of life beyond our Earth fascinates most Americans.

The discovery of life elsewhere in the universe would alter our priorities for space exploration and affect how we view ourselves.

In just the last two decades, we have confirmed the existence of 3,000 exoplanets, planets outside our solar system. Probing the cosmos encourages the next generation of young students to pursue careers in astronomy, astrophysics, and astrobiology.

We must continue to look at the Stars. They offer us a glimpse of the past and hope for the future.

#### HONORING BRAZOSWOOD HIGH SCHOOL

(Mr. WEBER of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER of Texas. Mr. Speaker, earlier this year, the Brazoswood High School band was awarded one of the highest honors: the Sudler Flag of Honor by the John Philip Sousa Foundation.

The Sudler Flag of Honor is given to distinguished high school bands that have demonstrated particularly high standards of excellence in concert activities over a period of several years. There is a 7-year minimum process, with countless documents, recordings, letters of recommendation, and performances at not only the State but the local level as well.

Of the nearly 50 Sudler Flags that have been awarded since 1983, almost 30 of them have gone to Texas high school bands. The Brazoswood Buccaneer Band is the most recent addition to this prestigious group, and they are the only band to have been awarded the Sudler Flag in 2017.

My sincere congratulations to the students; the alumni; the band; Mr. Brian Casey, the band director; and the

principal, Rita Pintavalle, on this outstanding achievement.

#### RECESS

The SPEAKER pro tempore (Mr. WILSON of South Carolina). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 4:30 p.m. today.

Accordingly (at 2 o'clock and 6 minutes p.m.), the House stood in recess.

□ 1630

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. POLIQUIN) at 4 o'clock and 30 minutes p.m.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

The House will resume proceedings on postponed questions at a later time.

#### FAIR ACCESS TO INVESTMENT RESEARCH ACT OF 2017

Mr. HILL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 910) to direct the Securities and Exchange Commission to provide a safe harbor related to certain investment fund research reports, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 910

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Fair Access to Investment Research Act of 2017".*

#### SEC. 2. SAFE HARBOR FOR INVESTMENT FUND RESEARCH.

(a) *EXPANSION OF THE SAFE HARBOR.*—Not later than the end of the 180-day period beginning on the date of enactment of this Act, the Securities and Exchange Commission shall propose, and not later than the end of the 270-day period beginning on such date, the Commission shall adopt, upon such terms, conditions, or requirements as the Commission may determine necessary or appropriate in the public interest, for the protection of investors, and for the promotion of capital formation, revisions to section 230.139 of title 17, Code of Federal Regulations, to provide that a covered investment fund research report that is published or distributed by a broker or dealer—

(1) shall be deemed, for purposes of sections 2(a)(10) and 5(c) of the Securities Act of 1933 (15 U.S.C. 77b(a)(10), 77e(c)), not to constitute an offer for sale or an offer to sell a security that is the subject of an offering pursuant to a registration statement that is effective, even if the broker or dealer is participating or will participate in the registered offering of the covered investment fund's securities; and

(2) shall be deemed to satisfy the conditions of subsection (a)(1) or (a)(2) of section 230.139 of title 17, Code of Federal Regulations, or any successor provisions, for purposes of the Commission's rules and regulations under the Federal securities laws and the rules of any self-regulatory organization.

(b) *IMPLEMENTATION OF SAFE HARBOR.*—In implementing the safe harbor pursuant to subsection (a), the Commission shall—

(1) not, in the case of a covered investment fund with a class of securities in substantially continuous distribution, condition the safe harbor on whether the broker's or dealer's publication or distribution of a covered investment fund research report constitutes such broker's or dealer's initiation or reinitiation of research coverage on such covered investment fund or its securities;

(2) not—  
(A) require the covered investment fund to have been registered as an investment company under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) for any period exceeding the period of time referenced under paragraph (a)(1)(i)(A)(1) of section 230.139 of title 17, Code of Federal Regulations; or

(B) impose a minimum float provision exceeding that referenced in paragraph (a)(1)(i)(A)(1)(i) of section 230.139 of title 17, Code of Federal Regulations;

(3) provide that a self-regulatory organization may not maintain or enforce any rule that would—

(A) prohibit the ability of a member to publish or distribute a covered investment fund research report solely because the member is also participating in a registered offering or other distribution of any securities of such covered investment fund; or

(B) prohibit the ability of a member to participate in a registered offering or other distribution of securities of a covered investment fund solely because the member has published or distributed a covered investment fund research report about such covered investment fund or its securities; and

(4) provide that a covered investment fund research report shall not be subject to section 24(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–24(b)) or the rules and regulations thereunder, except that such report may still be subject to such section and the rules and regulations thereunder to the extent that it is otherwise not subject to the content standards in the rules of any self-regulatory organization related to research reports, including those contained in the rules governing communications with the public regarding investment companies or substantially similar standards.

(c) *RULES OF CONSTRUCTION.*—Nothing in this Act shall be construed as in any way limiting—

(1) the applicability of the antifraud or antimanipulation provisions of the Federal securities laws and rules adopted thereunder to a covered investment fund research report, including section 17 of the Securities Act of 1933 (15 U.S.C. 77g), section 34(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–33), and sections 9 and 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78i, 78j); or

(2) the authority of any self-regulatory organization to examine or supervise a member's practices in connection with such member's publication or distribution of a covered investment fund research report for compliance with applicable provisions of the Federal securities laws or self-regulatory organization rules related to research reports, including those contained in rules governing communications with the public, or to require the filing of communications with the public the purpose of which is not to provide research and analysis of covered investment funds.

(d) *INTERIM EFFECTIVENESS OF SAFE HARBOR.*—

(1) *IN GENERAL.*—From and after the 270-day period beginning on the date of enactment of this Act, if the Commission has not adopted revisions to section 230.139 of title 17, Code of Federal Regulations, as required by subsection (a), and until such time as the Commission has done so, a broker or dealer distributing or publishing a covered investment fund research report after such date shall be able to rely on the provisions of section 230.139 of title 17, Code of Federal Regulations, and the broker or dealer's publication of such report shall be deemed to satisfy the conditions of subsection (a)(1) or (a)(2) of section 230.139 of title 17, Code of Federal Regulations, if the covered investment fund that is the subject of such report satisfies the reporting history requirements (without regard to Form S-3 or Form F-3 eligibility) and minimum float provisions of such subsections for purposes of the Commission's rules and regulations under the Federal securities laws and the rules of any self-regulatory organization, as if revised and implemented in accordance with subsections (a) and (b).

(2) *STATUS OF COVERED INVESTMENT FUND.*—After such period and until the Commission has adopted revisions to section 230.139 and FINRA has revised rule 2210, for purposes of subsection (c)(7)(O) of such rule, a covered investment fund shall be deemed to be a security that is listed on a national securities exchange and that is not subject to section 24(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(b)).

(3) *COVERED INVESTMENT FUNDS COMMUNICATIONS.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), communications that concern only covered investment funds that fall within the scope of section 24(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(b)) shall not be required to be filed with FINRA.

(B) *EXCEPTION.*—FINRA may require the filing of communications with the public if the purpose of those communications is not to provide research and analysis of covered investment funds.

(c) *DEFINITIONS.*—For purposes of this Act:

(1) The term “covered investment fund research report” means a research report published or distributed by a broker or dealer about a covered investment fund or any securities issued by the covered investment fund, but not including a research report to the extent that it is published or distributed by the covered investment fund or any affiliate of the covered investment fund.

(2) The term “covered investment fund” means—

(A) an investment company registered under, or that has filed an election to be treated as a business development company under, the Investment Company Act of 1940 and that has filed a registration statement under the Securities Act of 1933 for the public offering of a class of its securities, which registration statement has been declared effective by the Commission; and

(B) a trust or other person—

(i) issuing securities in an offering registered under the Securities Act of 1933 and which class of securities is listed for trading on a national securities exchange;

(ii) the assets of which consist primarily of commodities, currencies, or derivative instruments that reference commodities or currencies, or interests in the foregoing; and

(iii) that provides in its registration statement under the Securities Act of 1933 that a class of its securities are purchased or redeemed, subject to conditions or limitations, for a ratable share of its assets.

(3) The term “FINRA” means the Financial Industry Regulatory Authority.

(4) The term “research report” has the meaning given that term under section 2(a)(3) of the Securities Act of 1933 (15 U.S.C. 77b(a)(3)), except that such term shall not include an oral communication.

(5) The term “self-regulatory organization” has the meaning given to that term under section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. HILL) and the gentleman from Illinois (Mr. FOSTER) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas.

#### GENERAL LEAVE

Mr. HILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HILL. Mr. Speaker, I yield myself such time as I may consume.

Today I rise in support of H.R. 910, the Fair Access to Investment Research Act, which I have had the pleasure of working on with my friend from Illinois (Mr. FOSTER) in this Congress and now-Governor Carney in the last Congress.

Mr. FOSTER, I had the pleasure to speak with Governor Carney this weekend and tell him of our great collaboration in this Congress, and he sends his warmest regards for the process.

This bill, Mr. Speaker, is a common-sense, bipartisan, bicameral effort to increase access to research and information on exchange-traded funds, or ETFs, an important and rapidly growing investment vehicle in the United States and around the world.

Before coming to Congress, I worked in the banking and investment industry for nearly three decades, and I have witnessed firsthand the explosive growth in the ETF industry. Since I started my latest firm in the late 1990s, I have seen the exchange-traded fund selection grow from about 100 funds with about \$100 billion in total assets to today's 2,000 funds with about \$2.4 trillion in investment assets.

However, despite this rapid growth in the popularity in the ETF market and their increasing importance to retail investors, most broker-dealers do not publish research on ETFs due to anomalies in our securities laws and regulations.

The SEC has implemented safe harbors for research in support of various asset classes, including listed stocks, corporate debt, and closed-ended funds, and Congress has provided explicit safe harbors for research related to the offerings of emerging growth company securities. However, despite their similarities to those asset classes, ETFs do not benefit from similar safe harbors.

An ETF safe harbor is also not a novel concept to the Commission, and there is bipartisan consensus that this is something that the SEC should have done years ago. In addition to providing feedback on this bill for the past 3 years, the SEC, itself, has looked at granting a safe harbor for ETF re-

search on multiple occasions but never quite got around to it.

The Fair Access to Investment Research Act simply directs the SEC to provide a safe harbor for research reports that cover ETFs so that these reports are not considered offers under the Federal securities laws. Because ETFs are continuously brought to the market, a safe harbor is necessary for broker-dealers to publish this research.

It also holds the SEC accountable to Congress by providing an interim safe harbor if the SEC does not act within a 270-day period, which would be effective until the Commission finalizes its rules in this area.

Providing this safe harbor will increase access to investment information for consumers and improve the efficiency of our capital markets. Given the importance of ETFs to the market and to the 6 million or so U.S. households that hold ETFs, steps to facilitate research and allow investors access to this useful information are long overdue.

Mr. Speaker, we want more information for our consumers about how their investments work, how an ETF fits into their investment portfolio, how it is consistent with their time horizon and their goals, and what the transaction costs are. What are the unique strategies around that ETF? Does it, in fact, use leverage or not? All these kinds of details will help our consumers know more about these products.

As our Capital Markets Subcommittee ranking member, Mrs. MALONEY, stated so eloquently at our markup earlier this year: It makes sense to get more research out there on ETFs. After all, if you are concerned with the growth of ETFs, then the last thing you want is less research.

True it is.

This bill in no way undermines or eliminates any investor protections in the Federal securities laws or the SEC's ability to oversee the registration and sale of ETF securities explicitly, containing a rule of construction that the applicability of the antifraud and antimanipulation provisions of the Federal securities laws are in no way limited by this legislation.

This safe harbor would also only apply to bona fide research and in no way limits FINRA, the Federal securities regulators, and the SEC's ability to regulate sales and marketing literature that is used for ETFs.

I would like to thank, again, my colleagues, Mr. FOSTER and Governor Carney, Senators HELLER and PETERS for their work in the United States Senate, my chairman, the ranking member, and Mrs. MALONEY and the staff on both sides of the aisle for their hard work on this pro-consumer, common-sense proposal to make more information available to America's investing households.

In March, H.R. 910 passed the House Financial Services Committee by an overwhelmingly bipartisan vote of 56-2,

and a similar version of this legislation passed the House in the last Congress by a vote of 411-6.

I urge all my colleagues to support this bill today, and I reserve the balance of my time.

Mr. FOSTER. Mr. Speaker, I yield myself such time as I may consume.

I thank my colleague from Arkansas (Mr. HILL) for his years of hard bipartisan work that went into this bill.

I am proud to support this bill today because I believe that it will strengthen the abilities of investors to make informed decisions. This legislation would add transparency in the financial markets that will ultimately benefit consumers.

Exchange-traded funds are valuable and popular tools for investors to get exposure to diversified risk through a single security with low costs. My wife and I use them ourselves. They are, however, like the iPhone, very simple on the outside but incredibly complicated products on the inside. They often can be thoroughly understood only by those with the background and the time to analyze the way the ETF is constructed, as well as each of the underlying securities and the sectors they are targeting.

Retail investors and retirement savers often do not have this time and often do not have the expertise in the markets. High-quality research can help them make informed decisions about which ETFs to invest in, equipping them to make decisions on how to diversify across different sectors and indices.

ETFs are continuously issued, so they present unique potential risks to underwriting broker-dealers under the Federal securities laws.

Generally, the Federal securities laws prohibit a broker-dealer from participating in a securities offering from publishing research 15 days before or 30 days after the issuance for very good reason. This is to prevent research that could hype the security ahead of the offering or try to puff its price afterwards.

ETF pricing, however, reflects a wide variety of data across many issuers and classes of securities. Because they are continuously brought to market, it is necessary to provide a clarification in the law that research is permitted to be published continuously, because they are also continually traded on the exchanges. The antifraud provisions of the securities laws will still apply.

To be clear, this bill does not vitiate any rights of investors or responsibilities of broker dealers with respect to the accuracy and truthfulness of statements. Specifically, section 2(c)(1) provides that the antifraud and antimanipulation provisions of the securities laws are not limited by anything in this bill. Moreover, this applies only to bona fide research, and FINRA can require sales materials to be posted to the public.

Section 2(c)(2) preserves the powers of the SROs to oversee all of the prac-

tices of broker-dealers, including the publication of these reports.

Lastly, the bill provides for a statutory safe harbor should the Commission not be able to promulgate a rule in the 270-day period established by the bill. This statutory safe harbor is only available to research on funds that have been reported to the SEC for the last year, ensuring that it is true to the purpose of the bill to provide research to be used by investors for existing securities.

Statutory safe harbors exist elsewhere in the Federal securities laws, most notably section 4(a)(2) of the 1933 Act. A statutory private offering exemption can be perfected without relying on regulation D. In practice, though, that does not happen, and I trust that the SEC will prescribe an appropriate set of rules consistent with section 2(a) of this bill so that the regulatory safe harbor will be effective.

I urge my colleagues to support this bill, and I reserve the balance of my time.

Mr. HILL. Mr. Speaker, I thank my friend from Illinois for his comments and his constructive help on designing and completing the legislative process on this bill.

Mr. Speaker, an integral process of getting this bill completed was certainly by our staff, and I want to pay particular attention to Holli Heiles of my personal staff, who, this day, leaves the world of the personal staff and moves to the Subcommittee on Capital Markets, Securities, and Investments of the House Financial Services Committee. I want to thank Holli Heiles for her outstanding work on this bill and for her outstanding work on behalf of the people of the Second Congressional District of Arkansas, as well as to congratulate her on her move to the committee.

Mr. Speaker, I reserve the balance of my time.

Mr. FOSTER. Mr. Speaker, I again thank my colleague from Arkansas (Mr. HILL) and now-Governor Carney, as well, for working on this bill over the past years. I look forward to it being signed into law.

Mr. Speaker, I yield back the balance of my time.

Mr. HILL. Mr. Speaker, I appreciate the work done together on this bill. I don't have any other speakers on this particular bill.

I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BACON). The question is on the motion offered by the gentleman from Arkansas (Mr. HILL) that the House suspend the rules and pass the bill, H.R. 910, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. HILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further pro-

ceedings on this motion will be postponed.

□ 1645

#### SMALL BUSINESS CAPITAL FORMATION ENHANCEMENT ACT

Mr. HILL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1312) to amend the Small Business Investment Incentive Act of 1980 to require an annual review by the Securities and Exchange Commission of the annual government-business forum on capital formation that is held pursuant to such Act, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1312

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Small Business Capital Formation Enhancement Act".*

#### SEC. 2. ANNUAL REVIEW OF GOVERNMENT-BUSINESS FORUM ON CAPITAL FORMATION.

*Section 503 of the Small Business Investment Incentive Act of 1980 (15 U.S.C. 80c-1) is amended by adding at the end the following:*

*"(e) The Commission shall—*

*"(1) review the findings and recommendations of the forum; and*

*"(2) each time the forum submits a finding or recommendation to the Commission, promptly issue a public statement—*

*"(A) assessing the finding or recommendation of the forum; and*

*"(B) disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation.*

*"(f) FORUM FINDINGS.—Nothing in this section shall require the Commission to agree to or act upon any finding or recommendation of the forum."*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. HILL) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas.

#### GENERAL LEAVE

Mr. HILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 1312, the Small Business Capital Formation Enhancement Act, which would require the Securities and Exchange Commission to respond to the recommendations from its annual forum on small business capital formation.

Small businesses are the backbone of the U.S. economy, and, according to the SBA, have provided 55 percent of all jobs and 66 percent of all net new jobs over the past 40 years. These small